



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-912]

Certain Non-Refillable Steel Cylinders from India: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 17, 2023.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros or Macey Mayes, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7425 or (202) 482-4473, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On April 27, 2023, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of certain non-refillable steel cylinders (cylinders) from India filed in proper form on behalf of Worthington Industries (the petitioner), a U.S. producer of cylinders.¹ The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of cylinders from India.²

On May 1 and 9, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ On May 5 and 10, 2023, the petitioner filed timely responses to

¹ See Petitioner's Letter, "Certain Non-Refillable Cylinders from India – Petition from the Imposition of Antidumping and Countervailing Duties," dated April 27, 2023 (Petition).

² *Id.*

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Non-Refillable Steel Cylinders from India: Supplemental Questions," dated May 1, 2023; "Petition for the Imposition of Antidumping Duties on Imports of Certain Non-Refillable Steel Cylinders from India: Supplemental Questions," dated May 1, 2023; and "Petition for the Imposition of Antidumping Duties on Imports of Certain Non-Refillable Steel Cylinders from India: Supplemental Questions," dated May 9, 2023.

these requests for additional information.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of cylinders from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such cylinders are materially injuring, or threatening material injury to, the cylinder industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the Petition was filed on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.⁵

Period of Investigation

Because the Petition was filed on April 27, 2023, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the AD investigation is April 1, 2022, through March 31, 2023.

Scope of the Investigation

The products covered by the investigation are cylinders from India. For a full description of the scope of the investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments

⁴ See Petitioner's Letters, "Petitioner's Amendment to Volume I Relating to General and Injury Information," dated May 3, 2023 (General Issues Supplement); and "Petitioner's Amendment to Volume II Relating to Antidumping Duties," dated May 5, 2023; and "Petitioner's 2nd Amendment to Volume II of the Petition Relating to Antidumping Duties," dated May 10, 2023.

⁵ See section on "Determination of Industry Support for the Petitions" section, *infra*.

⁶ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

include factual information, all such factual information should be limited to public information.⁷

To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on June 6, 2023, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 16, 2023, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.⁸ An electronically filed document must be received successfully in its entirety by the time and date it is due.⁹

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of cylinders to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject

⁷ See 19 CFR 351.102(b)(21) (defining "factual information").

⁸ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

⁹ See 19 CFR 351.303(b)(1).

merchandise in order to report the relevant cost of production (COP) accurately, as well as to develop appropriate product-comparison criteria where appropriate.

Subsequent to the publication of this notice, Commerce intends to release a proposed list of physical characteristics and product-comparison criteria, and interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe cylinders, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, Commerce intends to establish a deadline for relevant comments and submissions at the time it releases the proposed list of physical characteristics and product-comparison criteria. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or

opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁰ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹¹

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the

¹⁰ See section 771(10) of the Act.

¹¹ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

domestic like product distinct from the scope of the investigation.¹² Based on our analysis of the information submitted on the record, we have determined that cylinders, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹³

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2022.¹⁴ The petitioner stated that there are no other known producers of cylinders in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁵ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁶

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁷ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹⁸ Finally, the domestic producers (or workers)

¹² See Petition at Volume I (pages 13-17); *see also* General Issues Supplement at 2 and Exhibits GEN-SUPP-1 and GEN-SUPP-2.

¹³ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist, “Certain Non-Refillable Steel Cylinders from India,” dated concurrently with this notice (AD Initiation Checklist), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Non-Refillable Steel Cylinders from India).

¹⁴ See Petition at Volume I (pages 3 and Exhibit GEN-2).

¹⁵ *Id.* at 2-3 and Exhibit GEN-1; *see also* General Issues Supplement at 2 and Exhibit GEN-1.

¹⁶ See Petition at Volume I (pages 2-3 and Exhibits GEN-1 and GEN-2); *see also* General Issues Supplement at 2 and Exhibit GEN-SUPP-1. For further discussion, *see* the AD Initiation Checklist at Attachment II.

¹⁷ See AD Initiation Checklist at Attachment II; *see also* section 732(c)(4)(D) of the Act.

¹⁸ See AD Initiation Checklist at Attachment II.

have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁹ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁰

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

The petitioner contends that the industry's injured condition is illustrated by the significant and increasing volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry's capacity utilization, commercial shipments, employment variables, and financial performance.²² We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²³

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate an AD investigation of imports of cylinders from India. The sources

¹⁹ *Id.*

²⁰ *Id.*

²¹ See Petition at Volume I (pages 12, 17-19, and Exhibits GEN-1 and GEN-11).

²² *Id.* at 19-31 and Exhibits GEN-1 and GEN-8 through GEN-15; *see also* General Issues Supplement at 3 and Exhibits GEN-SUPP-3 and GEN-SUPP-4.

²³ See AD Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Non-Refillable Steel Cylinders from India).

of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on pricing information for sales of, or sales offers for, cylinders produced in and exported from India. The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where appropriate.²⁴

Normal Value²⁵

The petitioner based NV on home market pricing information obtained through market research for cylinders produced in and sold, or offered for sale, in India during the period of investigation.²⁶ The petitioner provided information indicating that the prices for cylinders sold or offered for sale in India were below the COP; therefore, the petitioner also calculated NV based on CV.²⁷ For further discussion of CV, *see* the section “Normal Value Based on Constructed Value,” below.

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that the prices for cylinders sold or offered for sale in India were below COP. Therefore, the petitioner also based NV on CV. Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, selling, general, and administrative (SG&A) expenses, financial expenses, and profit.²⁸

In calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of cylinders, valued using publicly

²⁴ *See* AD Initiation Checklist.

²⁵ In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

²⁶ *See* AD Initiation Checklist.

²⁷ *Id.*

²⁸ *Id.*

available information applicable to India.²⁹ In calculating SG&A expenses, financial expenses, and profit ratios, the petitioner relied on the financial statements of producers of identical merchandise in India.³⁰

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of cylinders from India are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV and CV, in accordance with sections 772 and 773 of the Act, the estimated dumping margins for cylinders from India are 6.24 percent and 61.00 percent *ad valorem*.³¹

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of cylinders from India are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioner identified five companies in India as producers/exporters of cylinders.³² In the event Commerce determines that the number of companies in India is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to potential respondents. Following standard practice in AD investigations involving market economy countries, Commerce would normally select

²⁹ *Id.*

³⁰ *Id.*

³¹ See AD Initiation Checklist for details of the calculations.

³² See Petition at Volume I (Exhibit GEN-8).

respondents based on U.S. Customs and Border Protection (CBP) entry data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. However, for this investigation, the main HTSUS subheadings under which the subject merchandise would enter (7311.00.0060 and 7311.00.0090) are basket categories under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. We, instead, intend to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Exporters/producers of cylinders from India that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website, at <https://enforcement.trade.gov/questionnaires/questionnaires-ad.html>. Responses to the Q&V questionnaire must be submitted by the relevant exporters/producers no later than 5:00 p.m. ET on May 31, 2023, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of India via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition is filed, whether there is a reasonable indication that imports of cylinders from India are

materially injuring, or threatening material injury to, a U.S. industry.³³ A negative ITC determination will result in the investigation being terminated.³⁴ Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁵ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁶ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that "if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the COP in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology." When an interested party submits a

³³ See section 733(a) of the Act.

³⁴ *Id.*

³⁵ See 19 CFR 351.301(b).

³⁶ See 19 CFR 351.301(b)(2).

PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial response to section D of the AD questionnaire.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances, Commerce will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of

time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.³⁷

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁸ Parties must use the certification formats provided in 19 CFR 351.303(g).³⁹ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance).⁴⁰ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁴¹

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 17, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

³⁷ See 19 CFR 351.302; and *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁸ See section 782(b) of the Act.

³⁹ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴⁰ See *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008).

⁴¹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix

Scope of the Investigation

The merchandise covered by this investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation specification 39, TransportCanada specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 100-cubic inch (1.6 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and are unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by this investigation.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0030 and 7310.29.0065. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.